

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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GENE ALLEN,

Case No. 3:21-cv-00047-MMD-CLB

v.

**Petitioner,**

## ORDER

STATE OF NEVADA, *et al.*,

## Respondents.

12 On January 26, 2021, the Court entered an order and judgment summarily  
13 dismissing Petitioner Gene Allen’s habeas petition because the petition failed to state a  
14 ground for habeas relief. (ECF Nos. 4, 6.) Allen filed on January 28, 2021, a motion under  
15 Fed. R. Civ. P. 60(b) asking for reconsideration, then filed another on February 11, 2012.  
16 (ECF Nos. 7, 10.)<sup>1</sup>

17       Under Rule 60(b) of the Federal Rules of Civil Procedure, the Court may relieve a  
18 party from a final judgment in the following circumstances: (1) mistake, inadvertence,  
19 surprise, or excusable neglect; (2) newly discovered evidence; (3) fraud; (4) the judgment  
20 is void; (5) the judgment has been satisfied; or (6) any other reason justifying relief from  
21 the judgment. See *Stewart v. Dupnik*, 243 F.3d 549, 549 (9th Cir. 2000). Allen fails to  
22 establish that he is entitled to relief under any of these grounds. Alternatively, he has also  
23 not shown that he is entitled to relief under Fed. R. Civ. Proc. 59(e). See *Kona Enters. v.*  
24 *Est. of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000) (internal quotations omitted) (“[A] motion  
25 for reconsideration should not be granted, absent highly unusual circumstances, unless

<sup>27</sup> Though not identical, the second motion does not add to the argument contained  
<sup>28</sup> in the first.

1 the district court is presented with newly discovered evidence, committed clear error, or if  
2 there is an intervening change in the controlling law.")

3 It is therefore ordered that Petitioner Allen's motions for reconsideration (ECF Nos.  
4 7, 10) are denied.

5 It is further ordered that a certificate of appealability is denied, as reasonable jurists  
6 would not find the denial of the motions to be wrong or debatable.

7 DATED THIS 28<sup>th</sup> Day of May 2021.

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10 MIRANDA M. DU  
11 CHIEF UNITED STATES DISTRICT JUDGE  
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